

Dear Mr. Mokhiber,

The International Dalit Solidarity Network (IDSN) and the Dalit Network Netherlands (DNN) would like to propose the topic of discrimination on work and descent, in particular caste-based discrimination, to be discussed at the 2013 Forum on Business and Human Rights.

In the context of business and human rights, we are linking the topic of caste-based discrimination to labour rights, gender and the impact of business on Dalits in their communities.

We are resending last year's IDSN submission which we feel would still be most relevant to be discussed this year at the Forum. You will find this submission attached.

In addition we would like to draw your attention to some recent publications by the India Committee of the Netherlands (ICN) on the intersection between labour rights, gender and caste-based discrimination in three economic sectors in India. Please find a note on these publications attached.

We do hope you will consider the topic of caste-based discrimination in the context of business behaviour for the 2013 Forum on Business and Human Rights.

Kind regards,

Gerard Oonk

director India Committee of the Netherlands and

co-ordinator of the Dalit Network Netherlands

also on behalf of:

Rikke Nöhrind

co-ordinator International Dalit Solidarity Network



Utrecht, 12 April 2013

## **Note on the intersection between labour rights, gender and caste based-discrimination in India.**

We would like to draw your attention to the few recent publications on the intersection between labour rights, gender and caste-based discrimination in India. These publications are:

### **The textile and garment sector**

- 1. Report: Captured by Cotton - Exploited Dalit girls produce garments in India for European and US markets. See: <http://www.indianet.nl/CapturedByCotton.html>**
- 2. Report: Maid in India - Young Dalit Women Continue to Suffer Exploitative Conditions in India's Garment Industry. See: <http://www.indianet.nl/MaidInIndia.html>**

A range of other reports, articles, documentaries etc. on this by various organization, the media etc. have been published during the last few years. It is affecting around 200.000 girls and some boys, roughly 60% of Dalit descent. You will these documents here:

[http://www.indianet.nl/sumangali\\_e.html](http://www.indianet.nl/sumangali_e.html)

Related to and partly causative of labour rights violations like child labour, bonded labour (which is almost exclusively affecting Dalits), sub-standard wages, gendered wage discrimination and working conditions, caste-based discrimination plays an important role in continuing the exploitation and human rights violations , which is summarized by a quote from the national Indian newspaper The Hindu:

*"The discriminatory practices found ingrained in Indian society on the basis of gender and caste are playing out in the factories as well, with the international companies failing in their attempts to structurally improve labour conditions at their suppliers in TN [Tamil Nadu]"*, The Hindu on 'Maid in India' report, 27 April 2012.

### **The hybrid seed sector**

- 3. Report "Wages of Inequality"- Women growing seeds for companies in India discriminated and underpaid (2012). See: <http://www.indianet.nl/121212e.html>**

**Two quotes from the article on the reports:**

#### **Dalits often make longer working days**

"Most workers at seed farms are either Dalits, other low castes ('Backward Castes') or Adivasi (tribals). There are no differences in wages between these groups and between them and workers from higher castes. But 'differential treatment' was found in Koppal district in Karnataka, including scolding of Dalits. In addition so-called Annual Farm Workers in Maharashtra are almost all Dalits. They are 'always at the disposal of the employer and do

not have fixed working hours'. They normally work 12 hours in a day and are not paid for their 'overtime'."

#### **Women discriminated and underpaid**

"The report shows that women are still earning substantially less than the official minimum wage because they are paid considerably less than men, also for exactly the same tasks. The average daily wage of women for jobs like sowing, weeding and harvesting is 5-48% lower than the official minimum wages in different states. The wage varies between Rs. 85 and Rs. 150 per normal working day. Men mostly perform the better paying jobs like spraying pesticides, ploughing and application of fertilizers."

#### **4. Report: Seeds of Child labour – Signs of Hope (2010).**

#### **5. Growing Up in the Danger Fields - Child and Adult Labour in the Vegetable Seed Sector in India (2010). Find both reports here: <http://www.indianet.nl/pb100610e.html>**

#### **A quote from the press release on reports 4 and 5:**

"The report also deals with gender and caste discrimination of the workers. Around 75% of the work is done by women, especially girls. Women not only are paid much less for the same work, they often work longer hours for it. Dalits, the so-called 'untouchables' and Adivasi (tribals) constitute in most states the majority of the workers. Dalits are frequently being ill-treated and expected to do additional work like cleaning the cattle shed and carrying loads."

### **The natural stone sector**

#### **6. Article: Mining and its effects on children, women, Adivasi and Dalits.**

See: <http://www.dalits.nl/pdf/MiningAndItsEffectOnChildren.pdf>

This article is based on the report "India's Childhood in the "Pits" published by HAQ, SAMATA and mines, minerals and People (mmP) as well the report Women Miners in Rajasthan, India by GRAVIS. The article says on the situation of Dalits and the angle of caste:

"In the cases that displacement for (mineral) mining areas is compensated with cash money, Dalits – often worst affected – do not receive any compensation as they do not own land themselves, but work as landless labourers on other people's land.

The reports do not delve deeper into whether quarry labourers from scheduled caste/tribal background face specific discrimination at the workplace. Discrimination of Dalits in the workplace is often rather subtle; they can get excluded from social services such as health care and training, or will never have the chance to be promoted as they are viewed as unskilled labourers."

#### **With regard to the caste-labour nexus a few general observations can be made:**

- increased vulnerability at recruitment (garment workers in Tamil Nadu), because of specific targeting of vulnerable households, mostly Dalits;
- scolding and calling caste name, in short humiliation on top of exploitation;
- extra work demanded from Dalits and sometimes 'unlimited availability';
- lesser opportunities for upward mobility, if any;
- lesser opportunities to negotiate in for higher wages or when conflicts arise



**International Dalit Solidarity Network**

WORKING GLOBALLY AGAINST DISCRIMINATION BASED ON WORK AND DESCENT

The Working Group on the issue of human rights and transnational corporations and other business enterprises

Office of the UN High Commissioner for Human Rights

Palais des Nations

CH-1211 Geneva 10, Switzerland

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### **Submission for the public consultation on the UN Forum on Business and Human Rights**

With reference to the general principle of implementation of the Guiding Principles in a non-discriminatory manner, with particular attention to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalised, IDS N is pleased to submit recommendations regarding the protection of rights of Dalits and other people affected by caste discrimination and inclusion of the affected groups in the work of the Forum. IDS N proposes to make the issue of caste-based discrimination a thematic focus of the Forum.

Caste-based discrimination affects an estimated 260 million people globally and causes numerous human rights violations against the affected groups. Several UN human rights bodies have expressed concern on the violations and lack of state protection. A compilation of these references can be found at the following link:

[www.idsn.org/uncompilation](http://www.idsn.org/uncompilation)

Business operations in caste-affected countries are at a high risk of being based on the economic exploitation or seclusion of communities marginalized due to their perceived "low" position in the caste hierarchy. Violations of both national legislation as well as international law, in particular the international labour standards, often occur.

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Common examples of caste discrimination in business operations are:

- Discrimination in employment practices - applicants from caste-affected communities are likely not to be considered for skilled jobs, regardless of qualifications
- Discrimination in the services and utilities offered by an employer, such as housing, health care, and education and training
- Misappropriation of land belonging or allocated to caste-affected communities
- Exploitation of workers from caste-affected communities, including the use of children and bonded labourers, working under hazardous conditions for a minimal pay.

A range of ILO studies on bonded labour relations reveal the link between the social hierarchies of caste and relationships of bondage. The UN Special Rapporteur on contemporary forms of slavery referred to these links in a 2009 report to the Human Rights Council stating that “ILO research shows a clear link in Asian countries between forced labour and long-standing patterns of discrimination. In India, the overwhelming majority of bonded labour victims in agriculture, brick making, mining and other sectors are from Scheduled Castes and Scheduled Tribes” ([A/HRC/12/21](#)).

A key issue paper on bonded labour and caste discrimination is attached, and can furthermore be found at the following link: <http://idsn.org/caste-discrimination/key-issues/bonded-labour/>

While the issue of caste discrimination remains widely overlooked in relation to the human rights and labour obligations of private companies, attention has increased in recent years. At least 50 companies have included aspects related to caste-based discrimination in their communications on progress to the Global Compact and steps to address the issue have been taken up by employer associations in India and different chapters of the multi-stakeholder initiative the Ethical Trading Initiative.

## **IDSN Recommendations**

### **(1) Addressing challenges in relation to groups affected by caste-based discrimination**

The special circumstances of groups affected by caste discrimination must be considered by the Working Group and the Forum and special measures to address established discriminatory practices must be included in efforts to promote the Guiding Principles in caste-affected countries.

A number of tools exist to help private companies assess complicity in discrimination and other human rights violations against groups marginalized due to their caste background and to remedy harm done in their own operations and with subsidiaries as well as suppliers. It is recommended that the following reference documents are used to inform the work of the Working Group and the Forum:

- The Ambedkar Principles are developed to assist foreign investors in South Asia. They include a set of employment principles as well as a set of additional principles addressing economic and social exclusion of Dalits in South Asia. The Principles intend to acknowledge the degree of historic injustice against Dalits in South Asia and aim to compensate for this through affirmative action, in line with international human rights standards, although not to the detriment of other excluded groups.  
[http://idsn.org/fileadmin/user\\_folder/pdf/New\\_files/IDSN/Ambedkar Principles\\_brochure.pdf](http://idsn.org/fileadmin/user_folder/pdf/New_files/IDSN/Ambedkar_Principles_brochure.pdf)
- The Dalit Discrimination Check is a web-tool developed specifically to help companies identify and prevent discrimination and exploitation of Dalits in their Indian operations and suppliers. It is designed as a comprehensive checklist with self-guided questions and indicators of possible violations of national Indian law and international law. It has been developed by the Danish Ministry of Foreign Affairs, IDSN and the Danish Institute for Human Rights as a separate check under the Human Rights Compliance Assessment.  
<https://hrca2.humanrightsbusiness.org/Page-TheDalitDiscriminationCheck-22.aspx>
- The Global Call for Action and Recommendations on Good Practice and Strategies to Eliminate Caste-Based Discrimination is the outcome International Consultation on Good Practices and Strategies to Eliminate Caste Based Discrimination (29 Nov – 1 Dec 2011). It contains specific recommendations to Governments, International Organisations and Intergovernmental institution, civil society and the private sector. Recommendations specific to the private sector can be found at the following link: <http://idsn.org/idsn-consultation/ic-recommendations/private-sector/>
- The ISO26000 standard on social responsibility refers to discrimination based on caste and the obligation of private sector actors to contribute to eliminating such practices.
- The draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent are a comprehensive legal framework developed to eliminate caste discrimination globally. Based on existing international human rights principles and obligations, the framework proposes general and special measures to be taken by multiple stakeholders, including private sector actors. <http://idsn.org/international-advocacy/un/un-principles-guidelines/>

**(2) Inclusion of communities affected by caste-based discrimination**

Special attention must be given to ensuring the genuine and informed participation of communities subjected to caste discrimination in the Forum as well as in dialogues and implementation in caste-affected countries. Due to the pre-existing conditions, it cannot be assumed that mainstream civil society or labour organisations, nor village councils will automatically promote the interest of the groups affected by caste discrimination, and steps to ensure cooperation with civil society organisations or groups especially representing the discriminated groups must be taken.